

## **§ 77.51**

unless the notice is impractical or unnecessary.

### **§ 77.51 Parties to the hearing.**

The presiding officer designates the following as parties to the hearing—

(a) The proponent of the proposed construction or alteration.

(b) Those persons whose activities would be substantially affected by the proposed construction or alteration.

### **§ 77.53 Prehearing conference.**

(a) The presiding officer may, in his discretion, hold a prehearing conference with the parties to the hearing and the legal officer before the hearing.

(b) At the direction of the presiding officer, each party to a prehearing conference shall submit a brief written statement of the evidence he intends to provide through his witnesses and by questioning other witnesses at the hearing, and shall provide enough copies of the statement so that the presiding officer may keep three for the FAA and give one to each other party.

(c) At the prehearing conference, the presiding officer reduces and simplifies the subject matter of the hearing so far as possible and advises the parties of the probable order of presenting the evidence.

### **§ 77.55 Examination of witnesses.**

(a) Each witness at a hearing under this subpart shall, after being sworn by the presiding officer, give his testimony under oath.

(b) The party for whom a witness, other than an employee of the FAA, is testifying shall examine that witness. After that examination, other parties to the hearing may examine the witness, in the order fixed by the presiding officer. The presiding officer and the legal officer may then examine the witness. The presiding officer may grant any party an additional opportunity to examine any witness, if that party adequately justifies the additional examination.

(c) The legal officer examines each FAA employee who is a witness, before the other parties examine him. After that examination, the order prescribed in paragraph (b) of this section applies. An FAA employee may testify only as to facts within his personal knowledge

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and the application of FAA regulations, standards, and policies.

### **§ 77.57 Evidence.**

(a) The presiding officer receives all testimony and exhibits that are relevant to the issues of the hearing. So far as possible, each party shall submit enough copies of his exhibits that the presiding officer may keep three copies for the FAA and give one to each other party.

(b) The presiding officer excludes any testimony that is irrelevant, unduly repetitious, or consists of statements made during an aeronautical study in an effort to reconcile or compromise aviation or construction or alteration requirements. A party to the hearing may object to the admission of evidence only on the ground that it is irrelevant.

### **§ 77.59 Subpoenas of witnesses and exhibits.**

(a) The presiding officer of a hearing may issue subpoenas for any witness or exhibit that he determines may be material and relevant to the issues of the hearing. So far as possible, each party to the hearing shall provide the witnesses and exhibits that he intends to present at the hearing.

(b) If any party to the hearing is unable to provide his necessary witnesses and exhibits, he shall advise the presiding officer far enough in advance that the presiding officer can determine whether he should issue subpoenas for the desired witnesses or exhibits.

### **§ 77.61 Revision of construction or alteration proposal.**

(a) The sponsor of any proposed construction or alteration covered by this part may revise his proposal at any time before or during the hearing. If he revises it, the presiding officer decides whether the revision affects the proposal to the extent that he should send it to the Administrator for a redetermination of the need for a hearing.

(b) If the presiding officer decides that it does not need to be resubmitted to the Administrator, he advises the parties of the revised proposal and takes the action necessary to allow all parties to effectively participate in the